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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/550,478

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Peter Weingartner

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520 SW YAMHILL STREET, Suite 200  
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EXAMINER

RODRIGUEZ, RUTH C

ART UNIT

PAPER NUMBER

3677

MAIL DATE

DELIVERY MODE

11/06/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/550,478

Applicant(s)

WEINGARTNER, PETER

Examiner

Ruth C. Rodriguez

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

1. The finality of the rejection of the last Office action is withdrawn in view of Applicant's remarks. However, claims 2-7 are being rejected in view of the newly discovered reference(s) to Ong (US 6,663,311 B2). Rejections based on the newly cited reference(s) follow.

### ***Information Disclosure Statement***

2. The information disclosure statement filed on 07 August 2006 has been considered for this Office Action.

### ***Claim Objections***

3. Claims 2 and 4 are objected to because of the following informalities:

- Claim 2 recites the limitation "the fold line" in the seventh line. There is insufficient antecedent basis for this limitation in the claim.
- Claim 4 recites the limitation "at each limb vertex". This limitation renders the claim indefinite because it is unclear what is "each limb vertex".

Correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 2 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Ong (US 6,663,311 B1).

A clip (50) comprises two limbs (52,54) and a pre-tensioned back (56) configured to apply a force to the limbs. The clip is configured to be U-shaped with the two limbs parallel to each other in a relaxed state (Fig. 3). Each limb includes a small fold (58) of less than 90 degrees. The back defines a fold line (Figs. 1-4). Each limb has an end connected to the back and an opposite end defining a limb vertex (Figs. 1-4). The fold line is disposed at an acute angle with respect to the back or the fold is disposed at each limb vertex (Figs. 3 and 4). The clip is configured so that sheets can be clamped between the limbs by virtue of the force applied to the pre-tensioned back (Fig. 1-4). The clip comprises metal or high-strength plastic or wood or compressed cellulose (C. 5, L. 29-32).

The sheets may be clamped between the limbs by virtue of the force applied by the pre-tensioned back in combination with projections incorporated into the limbs (Figs. 1-4).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 3, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ong in view of Burleigh et al. (US 2,310,835).

Ong discloses clip having all the features mentioned above for the rejection of claim 4. Both limbs are arranged on top of each other and parallel to each other in the relaxed state of the clip (Figs. 3 and 4). Ong fails to disclose that the both limbs are arranged on top of each other and parallel to each other in a state with a clamped stack of sheets by means of a spring. However, Burleigh teaches a clip comprises two limbs (4) and a pre-tensioned back (1) configured to apply a force to the limbs. The clip is configured to be U-shaped with the two limbs parallel to each other in a relaxed state (Fig. 1). Each limb includes a small fold (Figs. 1 and 2). The clip is configured so that sheets can be clamped between the limbs by virtue of the force applied to the pre-tensioned back (Figs. 1 and 2). The clip comprises metal or high-strength plastic or wood or compressed cellulose (Figs. 1 and 2). The spring allows the limbs to be parallel to each other at all times while providing a firm grip in the sheets (Page 2, column 1, lines 13-25). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to both limbs are arranged on top of

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each other and parallel to each other in a state with a clamped stack of sheets by means of a spring as taught by Burleigh in the clip disclosed by Ong. Doing so, allows the limbs to be parallel to each other at all times while providing a firm grip in the sheets.

Burleigh also teaches that clip is made to be multipart with both limbs being connected by a spring (1). When the combination of Ong and Burleigh is taken into consideration the limbs will not have mutual contact because the folds of Senna will prevent mutual contact between the limbs.

The clip taught by Burleigh is made to be multipart (Figs. 1-3).

Burleigh and Ong fail to disclose that each limb is triangular, trapezoidal, semicircular or semi-elliptical. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have each limb being triangular, trapezoidal, semicircular or semielliptical since a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). Especially since the use of triangular, trapezoidal, semicircular and semi-elliptical clips is well known in the paper clip art.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 2-7 have been considered but are moot in view of the new ground(s) of rejection.

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### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lob (US 1,038,164), Hart (US 1,590,682) and Chin (US 5,865,469) are cited to show state of the art with respect to clips comprising a back and two limbs extending from the back where the first ends of the two limbs that are parallel to each other and the free end are folded inwardly at an acute angle.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Ruth C. Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth C. Rodriguez  
Patent Examiner  
Art Unit 3677

rcr

November 2, 2007

  
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SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600